



Atty. Dkt. No.: P65123US0

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Wolf-Georg FORSSMANN et al.

Serial No.: 09/508,083

Group Art Unit: 1653

Filed: July 3, 2000

Examiner: SCHNIZER, Holly, G.

TECH CENTER 1600/2900

For: COMPOSITION FOR THE THERAPY OF DIABETES MELLITUS AND ADIPOSITY

**RESPONSE**

Commissioner of Patents  
Washington, D.C. 20231

Sir:

The instant paper responds to the Office Action mailed March 25, 2002.

Pursuant to the restriction requirement, Applicants elect the compound of claim 38 in which R=H, with traverse.

The restriction is traversed in that it would necessitate dividing the generic claims. This issue was settled over 20 years ago by the Decision *In re Weber*, 198 USPQ 328, 331 (CCPA 1978). As held by the court in *Weber*, requiring division of a generic claim in the guise of restriction under section 121 is improper because it would violate an applicant's right "to have *each* claim examined." 198 USPQ at 331 (*emphasis in original*).

Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: 

William E. Player  
Reg. No. 31,409

The Jenifer Building  
400 Seventh Street, N.W.  
Washington, D.C. 20004-2201  
(202) 638-6666  
Atty. Docket: P65123US0  
Date: May 28, 2002  
WEP/rdt

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TECH CENTER 1600/2900

TRANSMITTAL

Commissioner of Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith are a Response and Petition for Extension of Time in the above-captioned application.

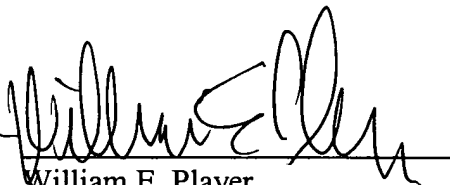
XX Small Entity status of this application under 37 CFR 1.9 and 1.27 has been established by a statement previously submitted.

XX A check in the amount of \$55.00 is attached for: Petition for Extension of Time.

XX If a Petition for Extension of Time is necessary and the Petition and/or the check is not enclosed, this will act as the Petition and applicant herewith petitions the Commissioner to extend the time for response and charge any fees necessary under 37 CFR 1.17 (a)-(d) to Deposit Account No. 06-1358. The Commissioner is also authorized to charge payment of any other additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1358.

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Atty. Dkt. No.: P65123US0  
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By:   
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Registration No. 31,409